

10
No. 1503

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT.

THE UNITED STATES OF AMERICA

Plaintiff in Error

vs.

GEORG FRIEDRICH RODIEK

Defendant in Error

Transcript of Record.

Upon Writ of Error to the United States District
Court for the Territory of Hawaii

FILED

OCT 23 1907

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Robert W. Breckons, United States Attorney, and
J. J. Dunne, Assistant United States Attorney, for
Plaintiff in Error.

Thompson & Clemons, for Petitioner and Appli-
cant.

*In the District Court of the United States, in and for
the District and Territory of Hawaii.*

In the Matter of the Application of GEORG
FRIEDRICH RODIEK, for Naturalization.

Statement.

March 28, 1907. Verified petition for naturali-
zation filed, accompanied with affidavit of witnesses.

Names of the Original Parties to the Cause.

Petitioner: Georg Friedrich Rodiek.

Respondent: The United States of America.

Dates of the Filing of the Pleadings.

March 28, 1907: Petition.

Date of Hearing.

August 13th, 1907: Hearing on petition.

The above hearing was had before Honorable San-
ford B. Dole, Judge of said Court.

Decision.

August 12, 1907: Decision on objection to admis-
sion of applicant.

August 13th, 1907: Judgment rendered and entered.

Sept. 4th, 1907: Petition for writ of error.

UNITED STATES OF AMERICA.
DEPARTMENT OF COMMERCE AND LABOR.
BUREAU OF IMMIGRATION AND NATURALI-
ZATION,
DIVISION OF NATURALIZATION.

District Court of the United States.

Petition for Naturalization.

In the Matter of the Petition of GEORG FRIED-
RICH RODIEK, to be Admitted a Citizen of
the United States of America.

To the District Court of the United States for the
Territory of Hawaii:

The petition of Georg Friedrich Rodiek respect-
fully shows:

First. My full name is Georg Friedrich Rodiek.

Second. My place of residence is number 2616
Nuuanu street, city of Honolulu, Territory of Ha-
waii.

Third. My occupation is merchant.

Fourth. I was born on the 17 day of February,
Anno Domini, 1871, at Altenesch, Germany.

Fifth. I emigrated to the Hawaiian Islands, now
a part of the United States, from Germany, on or
about the 29 day of April, Anno Domini 1891, and

arrived at the port of Honolulu, now in the United States, on the vessel S. S. "Australia."

Seventh. I am married. My wife's name is Pauline Elizabeth Rodiek. She was born in New York City, N. Y., and now resides at Honolulu, Territory of Hawaii. I have two children, and the name, date and place of birth, and place of residence of each of said children is as follows:

Julita Welhelmine Rodiek, born June 16, 1903, at Honolulu, Hawaii, and resides at Honolulu, Hawaii.

Cecelie Virginia Rodiek, born June 1, 1905, at Honolulu, Hawaii, and resides at Honolulu, Hawaii.

Eighth. I am not a disbeliever in or opposed to organized government or a member of or affiliated with any organization or body of persons teaching disbelief in organized government. I am not a polygamist nor a believer in the practice of polygamy. I am attached to the principles of the Constitution of the United States, and it is my intention to become a citizen of the United States and to denounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to William II, Emperor of Germany, of which at this time I am a subject, and it is my intention to reside permanently in the United States.

Ninth. I am able to speak the English language.

Tenth. I have resided continuously in the Hawaiian Islands, now a part of the United States of America, for a term of five years at least immediately preceding the date of this petition, to wit, since the 26 day of May, Anno Domini 1891, and in the now Territory of Hawaii for one year at least next preceding the date of this petition, to wit, since the 26 day of May, Anno Domini, 1891.

Eleventh. I have not heretofore made petition for citizenship to any Court. (I made petition for citizenship to the —— Court of —— at ——, on the —— day of ——, Anno Domino 1——, and the said petition was denied by the said Court for the following reasons and causes, to wit, ——, and the cause of such denial has since been cured or removed.)

Wherefore, your petitioner prays that he may be admitted a citizen of the United States of America. That I have never declared my intention to become a citizen of the United States, but have resided continuously in the Hawaiian Islands since the year A. D. 1891.

GEORG FRIEDRICH RODIEK.

(Signature of petitioner.)

Dated March 28, 1907.

United States of America,
Territory of Hawaii,—ss.

Georg Friedrich Rodiek, being duly sworn, deposes and says that he is the petitioner in the above-entitled proceeding; that he has read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

Subscribed and sworn to before me this 28th day of March, Anno Domini, 1907.

[Seal]

FRANK L. HATCH,

Clerk.

District Court of the United States.

In the Matter of the Petition of GEORG FRIEDRICH RODIEK, to be Admitted a Citizen of the United States of America.

Affidavit of Witnesses.

United States of America,
Territory of Hawaii,—ss.

James Gordon Spencer, occupation merchant, residing at Honolulu, Hawaii, and Eugene Robert Hendry, occupation United States Marshal, resid-

ing at Honolulu, Hawaii, each being severally, duly and respectively sworn, deposes and says that he is a citizen of the United States of America; that he has personally known George Friedrich Rodiek, the petitioner above mentioned, to be a resident of the United States for a period of at least five years continuously immediately preceding the date of filing his petition, and of the now Territory in which the above-entitled application is made for a period of fifteen years immediately preceding the date of filing of his petition; and that he has personal knowledge that the said petitioner is a person of good moral character, attached to the principles of the Constitution of the United States, and that he is in every way qualified, in his opinion, to be admitted a citizen of the United States.

JAMES GORDON SPENCER.

EUGENE ROBERT HENDRY.

Subscribed and sworn to before me this 28th day of March, Anno Domini, 1907.

[Seal]

FRANK L. HATCH,

Clerk.

Filed March 28, 1907.

In the Matter of the Petition of GEORG FRIEDRICH RODIEK, to be Admitted a Citizen of the United States of America.

Oath of Allegiance.

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and particularly to William II, the Emperor of Germany, of which I have heretofore been a subject; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same.

GEORG FRIEDRICH RODIEK.

Subscribed and sworn to before me, in open court, this 13th day of August, A. D. 1907.

[Seal]

A. E. MURPHY,

Deputy Clerk.

Order Admitting Petition to Citizenship.

Upon consideration of the petition of Georg Friedrich Rodiek, and affidavits in support thereof, and further testimony taken in open Court, it is ordered that the said petitioner, who has taken the oath required by law, be, and hereby is, admitted to be.

come a citizen of the United States of America, this 13th day of August, A. D. 1907.

By the Court:

SANFORD B. DOLE,

Judge.

*In the United States District Court for the Territory
of Hawaii.*

April A. D. 1907 Term.

In the Matter of the Application of GEORGE
FREDERICK RODIEK, for Naturalization.

**Decision Overruling Objection to Application for
Naturalization.**

The application is contested by the District Attorney on the ground that the present law requires a declaration of intention to become a citizen two years before receiving citizenship papers, as a prerequisite; and in this case there is no declaration of intention, the applicant relying on the qualification of five years' residence in the Hawaiian Islands previous to the taking effect of the organic act of the Territory of Hawaii (April 30, 1900; 31 Stat. L., chap. 339, page 141), recognized by section 100 of such act as a substitute for a declaration of intention.

The contention of the District Attorney is "that the purpose of Congress in adopting the act was to reconstruct and remodel the existing law of natur-

alization and to prescribe the only rule by which aliens might be admitted to citizenship, to make that rule uniform, and to insist upon its observance 'throughout the United States.' "

The introductory provision as to the sections providing the method of naturalization is the same both in the new law and in the old. It is this: "An alien may be admitted to become a citizen of the United States in the following manner and not otherwise." These words in the new act are therefore merely affirmative of the same words in the former act, and are subject to the exception in the method of naturalization created by the organic act of the Territory of Hawaii, unless the new act contains words showing an intention by Congress to terminate the running of such exception. Does it contain such words? I fail to find them: The method of naturalization is substantially the same as before but with greater elaboration, and some added conditions, which however have no bearing upon this question.

The exception created by the organic act is limited in its application to the locality of the Territory of Hawaii. The repealing act makes no reference to such legislation although it otherwise refers to the Territory of Hawaii.

"A special statute providing for a particular place, or applicable to a particular locality, is not repealed by a statute general in its terms and ap-

plication, unless the intention of the legislature to repeal or alter the special law is manifest, although the terms of the general act would, taken strictly and but for the special law, include the case or cases provided for by it.” 1 Lewis’ Sutherland Statutory Construction, section 275, page 529. “It is a principle that a general statute without negative words will not repeal by implication from their repugnancy the provisions of a former one which is special, local or particular, or which is limited in its application, unless there is something in the general law or in the course of legislation upon its subject matter which makes it manifest that the legislature contemplated and intended a repeal.” *Id.*, pages 526-7.

The cases cited by the District Attorney, *Roche v. Mayor*, 40 N. J. L., 259, and others, on the point that when a repealing statute “covers the whole subject of the first, and embraces new provisions plainly showing that it was intended as a substitute for the first act, it will operate as a repeal of that act” (*United States v. Tynen*, 78 U. S. 88, 92), do not apply, as the new law expressly repeals certain sections of the Revised Statutes and makes no reference to other sections relating to the subject of naturalization, to wit, to sections 2166, 2169, 2170, 2171, 2173, and 2174 as well as section 100 of the organic act of the Territory of Hawaii. By these omissions

it is evident that Congress, in enacting the new law of naturalization, did not design a complete scheme for this matter and that it is therefore not “decisive evidence of an intention to prescribe the provisions contained in the later act as the only ones on that subject which shall be obligatory,” as recognized in the New Jersey case cited above.

In reaching these conclusions I have been largely influenced by the following citations:

“It is a canon of statutory construction that a later statute, general in its terms and not expressly repealing a prior statute, will ordinarily not affect the special provisions of such earlier statute. In other words, where there are two statutes, the earlier special and the later general—the terms of the general broad enough to include the matter provided for in the special—the fact that the one is special and the other general creates a presumption that the special is to be considered as remaining an exception to the general, and the general will not be understood as repealing the special, unless a repeal is expressly named, or unless the provisions of the general are manifestly inconsistent with those of the special.” *Rodgers v. United States*, 185 U. S. 83, 87-8.

“Implied repeals are not favored. The implication must be necessary. There must be a positive repugnancy between the provisions of the new laws

and those of the old. The language of the exception is special and express; the words relied on as a repeal are general and inconclusive. The rule is, *generalia specialibus derogant*. 'The general principle is to be applied,' said Boville, C. J., in *Thorpe vs. Adams*, L. R. 6 C. P. 145, 'to the construction of acts of Parliament is that a general act is not to be construed to repeal a previous particular act, unless there is some express reference to the previous legislation on the subject, or unless there is a necessary inconsistency in the two acts standing together.' 'And the reason is,' said Wood, V. C., in *Fitzgerald vs. Champenys*, 30 L. J. N. S. Eq. 782; 2 Johns. & Hem. 31-45, 'that the legislature having had its attention directed to a special subject and having observed all the circumstances of the case and provided for them, does not intend by a general enactment afterwards to derogate from its own act when it makes no special mention of its intention so to do.' *Ex parte Crow Dog*, 109 U. S. 556, 570-1.

"The question then arises, whether the 66th section of the act of 1799, ch. 128, has been repealed, or whether it remains in full force. That it has not been expressly or by direct terms, repealed, is admitted; and the question resolves itself into the more narrow inquiry, whether it has been repealed by necessary implication. We say, by necessary implication; for it is not sufficient to establish, that subsequent laws cover some or even all of the cases pro-

vided for by it; for they may be merely affirmative, or cumulative or auxiliary." *Wood vs. United States*, 41 U. S. 341, 362.

The objection to the application is overruled.

Dated, August 12th, 1907.

Messrs. Thompson Clemons, for the Applicant.

J. J. Dunne, Esq., Asst. U. S. District Attorney,
contra.

SANFORD B. DOLE,
Judge U. S. District Court.

[Endorsed]: Title of Court and Cause. Decision Overruling Objection to the Application. Filed August 12th, 1907. Frank L. Hatch, Clerk. By A. E. Murphy, Deputy Clerk.

From Minutes of the United States District Court,
vol. 4, page 539, Monday, July 15th, 1907.

[Title of Court and Cause.]

Hearing.

Now comes Mr. Georg Friedrich Rodiek, the above-named petitioner, and Mr. J. J. Dunne, Assistant United States District Attorney, appearing on behalf of the United States herein, and the above-entitled matter comes on for hearing.

And thereupon said Assistant United States District Attorney moved the Court that the petition

herein be denied on the ground that said petitioner had failed to comply with paragraph 1 of section 4 of the Act of the Congress of the United States of America of June 29, 1906, in that he had failed to declare his intention to become a citizen of the United States as provided for by said Act of Congress, and after due hearing the Court took the matter under advisement until July 22, 1907, at 10 o'clock A. M.

From Minutes of the United States District Court,
vol. 4, page 546, Monday, July 22d, 1907.

[Title of Court and Cause.]

Hearing (Continued).

Now comes the above-named petitioner in person and with his witnesses, and also comes Mr. J. J. Dunne, Assistant United States District Attorney, representing the United States herein.

And the Court ordered that this matter be continued until Monday, July 29, 1907, at 10 o'clock A. M.

From Minutes of the United States District Court,
vol. 4, page 552, Monday, July 29, 1907.

[Title of Court and Cause.]

Hearing (Continued).

Now comes Mr. C. F. Clemons, counsel for petitioner herein, and moves the Court that this matter be continued, and Mr. J. J. Dunne, Assistant United States District Attorney, being present and consenting thereto, the Court orders that this matter be continued until Wednesday, August 7th, 1907, at 10 o'clock A. M. for further disposition.

From Minutes of the United States District Court,
vol. 4, page 574, Tuesday, August 13th, 1907.

[Title of Court and Cause.]

Hearing (Continued).

The above-entitled matter came on regularly for hearing this day. The petitioner being represented by Mr. C. F. Clemons, and the United States by Mr. J. J. Dunne, Assistant United District Attorney. When the matter was called for hearing it appeared that Eugene Robert Hendry, one of the witnesses named in the petition herein, was not present.

And thereupon Frank L. Winter was sworn as a witness in substitution for said Eugene Robert Hendry. Testimony was thereupon given by the witnesses, James G. Spencer and said Frank L.

Winter on behalf of said applicant and petitioner, and the petitioner was examined by the Court and the respective counsel. The United States through its counsel then moved that the testimony of the aforesaid Frank L. Winter be stricken out for the reason that it did not appear that said Eugene Robert Hendry could not be produced upon this final hearing, and for the reason that it did affirmatively appear from the testimony of said Frank L. Winter that said Eugene Robert Hendry could have been produced upon this final hearing, which motion the Court overruled, and to which ruling said counsel for the United States duly excepted. Thereupon the Court ordered that said petitioner be sworn in as a citizen of the United States, to which order counsel for the United States, on behalf of the United States objected on the following grounds; that the Court had no jurisdiction to make, give or render any judgment of naturalization in the present cause for the reason that it affirmatively appeared that the petitioner had not made the Declaration of Intention called for by the Naturalization Act of June 29, 1906, and upon the further ground that the Naturalization Act of June 29th, 1906, repealed and superseded section 100 of the act to establish a government in the Territory of the Hawaiian Islands, commonly known as the Organic Act, and upon the ground that upon the showing made by

the petitioner his petition should be denied and dismissed, which objection the Court overruled and to which ruling and to all of the proceedings in said matter counsel for the United States on behalf of the United States duly excepted. Thereupon the applicant and petitioner, Georg Friedrich Rodiek, was sworn in as a citizen of the United States.

And thereupon said counsel for the United States moved the Court that pending hearing and determination of the appeal about to be taken in this matter and of which said appeal said counsel for the United States now gives notice, that no certificate of naturalization issue to said petitioner, which motion the Court granted, and it was so ordered.

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

April A. D. 1907 Term.

In the Matter of the Application of GEORG FRIED-
RICH RODIEK for Naturalization.

Notice of Petition for Writ of Error.

To Georg Friedrich Rodiek, the Above-named Petitioner and Applicant, and to His Counsel:

You and each of you will please take notice hereby that on Friday the 6th day of September, A. D. 1907,

we shall present to said Court the petition for writ of error herein and assignment of errors herein, and shall move said Court to allow said writ of error and to direct the issuance of the same, and of the citation herein. Copies of said petition for writ of error and of the assignment of errors herein are made a part of this notice, attached hereto and served herewith.

Dated Honolulu, Hawaii, September 4th, A. D. 1907.

THE UNITED STATES OF AMERICA,
By ROBT. W. BRECKONS,
United States Attorney in and for Said District.
J. J. DUNNE,
Assistant United States Attorney for Said District.

Due service of the foregoing notice and receipt of copies of the various papers therein referred to, are hereby admitted this fourth day of September, A. D. 1907.

GEORG FRIEDRICH RODIEK,
By THOMPSON & CLEMONS,
His Attorneys.

[Endorsed]: Title of Court and Cause. Notice. On Petition for Writ of Error. Filed September 4th, 1907. Frank L. Hatch, Clerk. By A. E. Murphy, Deputy Clerk.

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

April A. D. 1907 Term.

In the Matter of the Application of GEORG
FRIEDRICH RODIEK for Naturalization.

Petition for Writ of Error.

To the Honorable SANFORD B. DOLE, Judge of
the Above-entitled Court, and presiding therein:

The United States of America, conceiving itself
aggrieved by the final judgment given, made and en-
tered by the above-named court, in the above-
entitled matter, upon the issues therein joined be-
tween said United States of America and Georg
Friedrich Rodiek, the above-named petitioner and
applicant, under the date of August 13th, A. D. 1907,
said judgment being now on file in said matter in
said court, does hereby petition the above-named
court for an order allowing said United States of
America to prosecute a writ of error to the United
States Court of Appeals for the Ninth Circuit, at
San Francisco, in the State of California, from said
judgment, and from the whole thereof, for the rea-
sons set forth in the assignment of errors which is
filed herewith, under and pursuant to the laws of the
United States in that behalf made and provided; and

it prays that this its petition for its said writ of error may be allowed, and that a transcript of the record, proceedings and papers upon which said judgment was given, made and entered, as aforesaid, duly authenticated may be sent to the said United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, in the State of California.

Dated Honolulu, Hawaii, Sept. 4th, A. D. 1907.

THE UNITED STATES OF AMERICA,

By ROBT. W. BRECKONS,

United States Attorney.

J. J. DUNNE,

Assistant United States Attorney.

Due service of the foregoing petition for writ of error, and receipt of a copy thereof, are hereby admitted this 4th day of ———, A. D. 1907.

THOMPSON & CLEMONS,

Counsel for Applicant.

[Endorsed]: Title of Court and Cause. Petition for Writ of Error. Filed September 4th, 1907. Frank L. Hatch, Clerk. By A. E. Murphy, Deputy Clerk.

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

April A. D. 1907 Term.

In the Matter of the Application of GEORG
FRIEDRICH RODIEK for Naturalization.

Assignment of Errors.

Now comes the United States of America, plaintiff in error herein, and says that in the record and proceedings in the above-entitled matter there is manifest error, and now makes, presents and files the following assignment of errors, upon which it will rely, to wit:

I.

Said Court had no jurisdiction to make, give or render any order or judgment in the above-entitled matter, for the reason that it affirmatively appears from the record in said matter that said Georg Friedrich Rodiek, said petitioner and applicant, did not comply with the Act of Congress of June 29, 1906, revising the law of naturalization, and requiring an antecedent declaration of intention before an applicant can be admitted to naturalization, in this, that said Georg Friedrich Rodiek did not make any such antecedent declaration of intention as is required by said Act of June 29, 1906.

II.

Section 100 of the Act of Congress to establish a Government for the Territory of Hawaii, approved April 30, 1900, has been and is now repealed by the adoption by Congress of the aforesaid Naturalization Act of June 29, 1906.

III.

Said Court erred in holding and deciding that it had jurisdiction to make, give and render any order or judgment in the above-entitled matter, for the reason that it affirmatively appears from the record in said matter that said Georg Friedrich Rodiek said petitioner and applicant, did not comply with the Act of Congress of June 29, 1906, revising the law of naturalization, and requiring an antecedent declaration of intention before an applicant can be admitted to naturalization, in this, that said Georg Friedrich Rodiek did not make any such antecedent declaration of intention as is required by said Act of June 29, 1906.

IV.

Said Court erred in holding and deciding that section 100 of the Act of Congress to establish a government for the Territory of Hawaii, approved April 30, 1900, has not been and is not now repealed by the adoption by Congress of the aforesaid Naturalization Act of June 29, 1906.

V.

Said Court erred in granting the application of petitioner and applicant herein.

VI.

Said Court erred in not denying the application of petitioner and applicant herein.

VII.

Said Court erred in overruling the objection of the United States of America to the granting of the application of petitioner and applicant herein.

VIII.

Said Court erred in making, giving, rendering, entering and filing its judgment in the above-entitled matter in favor of the above-named petitioner and applicant, and against the objections of the United States of America.

IX.

Said Court erred in making, giving, rendering, entering and filing its final judgment in the above-entitled matter in favor of said applicant and petitioner, and against the objections of the United States of America, upon the pleadings and record in said matter, in this, that said final judgment was and is contrary to law, and to the case made and facts stated in the pleadings and record in said action.

In order that the foregoing assignment of errors may appear of record, the United States of America presents the same to said Court, and prays that such

disposition be made thereof as is in accordance with law and the statutes of the United States in such case made and provided; and said The United States of America prays the reversal of the above-mentioned final judgment heretofore given, made, rendered, entered and filed by the above-entitled Court in the above-entitled matter.

Dated Honolulu, Hawaii, September 4th, A. D. 1907.

THE UNITED STATES OF AMERICA,

By ROBT. W. BRECKONS,

United States Attorney in and for said District.

J. J. DUNNE,

Assistant United States Attorney for said District.

Due service of the foregoing assignment and receipt of a copy thereof, are hereby admitted this 4th day of September, A. D. 1907.

THOMPSON & CLEMONS,

Counsel for Petitioner and Applicant.

[Endorsed]: Title of Court and Cause. Assignment of Errors. Filed September 4th, 1907. Frank L. Hatch, Clerk. By A. E. Murphy, Deputy Clerk.

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

April A. D. 1907 Term.

In the Matter of the Application of GEORG
FRIEDRICH RODIEK for Naturalization.

Stipulation Relative to Bill of Exceptions.

In the above-entitled matter, in order to avoid unnecessary printing, it is hereby stipulated and agreed by and between the respective parties hereto that no bill of exceptions need be prepared, presented, served, filed or settled in the above-entitled matter and that the writ of error in said matter to the Circuit Court of Appeals for the Ninth Circuit may be prosecuted, submitted and decided upon the record in this matter without any bill of exceptions whatever.

And it is hereby further stipulated and agreed by and between the said parties, that at and during the hearing of the above-entitled matter, to wit, August 13, 1907, in and before the above-entitled Court, said Georg Friedrich Rodiek, said applicant and petitioner, having first been duly sworn, testified that the first declaration he ever made of his intention to become a citizen of the United States was made on March 28, 1907, when he filed his present petition in the above-entitled matter.

Dated Honolulu, Hawaii, September 4th, A. D. 1907.

THE UNITED STATES OF AMERICA,
 Plaintiff in Error,
 By ROBT. W. BRECKONS,
 United States Attorney for the Territory of Hawaii.

J. J. DUNNE,
 Assistant United States Attorney for the Territory
 of Hawaii, Counsel for Plaintiff in Error.

GEORG FRIEDRICH RODIEK,
 By THOMPSON & CLEMONS,
 His Counsel.

[Endorsed]: Title of Court and Cause. Stipulation as to Bill of Exceptions. Filed September 4th, 1907. Frank L. Hatch, Clerk. By A. E. Murphy, Deputy Clerk.

*In the District Court of the United States in and for
 the District and Territory of Hawaii.*

April A. D. 1907 Term.

In the Matter of the Application of GEORG
 FRIEDRICH RODIEK for Naturalization.

Order Allowing Writ of Error.

At a stated term, to wit, the April A. D. 1907 term of the above-entitled court, held at its courtroom in the city of Honolulu, in the aforesaid District of

Hawaii, on the sixth day of September, A. D. 1907.
Present: The Honorable SANFORD B. DOLE,
Judge of said Court above named.

Upon the petition of the United States of America,
and on motion of R. W. Breckons, Esq., United States
Attorney for said District, and J. J. Dunne, Esq., As-
sistant United States Attorney for said District,
counsel for the said United States of America;

It is hereby ordered that a writ of error to the
United States Circuit Court of Appeals for the Ninth
Circuit, at the city of San Francisco, State of Cali-
fornia, from the final judgment heretofore given,
made, filed and entered by the above-named court in
the above-entitled matter, upon the issues therein
joined between said the United States of America and
and the above-named Georg Friedrich Rodiek, the
above-named petitioner and applicant, under date of
August 13th, A. D. 1907, be and the same is hereby
allowed, and that a certified transcript of the record,
stipulations, and all proceedings herein be forthwith
transmitted to the United States Circuit Court of Ap-
peals for the Ninth Circuit.

Dated Honolulu, Hawaii, September 6th, A. D.
1907.

SANFORD B. DOLE,
Judge U. S. District Court.

Due service of the above order, and receipt of a copy thereof, are hereby admitted this sixth day of September, A. D. 1907.

THOMPSON & CLEMONS,
Counsel for Petitioner and Applicant.

[Endorsed]: Title of Court and Cause. Order Allowing Writ of Error. Filed Sept. 6th, 1907. Frank L. Hatch, Clerk.

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

In the Matter of the Application of GEORG
FRIEDRICH RODIEK for Naturalization.

Praeceptum for Transcript of Record.

To the Clerk of the Above-entitled Court:

You will please prepare transcript of the record in this cause to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Judicial Circuit under the writ of error heretofore sued out and perfected to said court, and include in said transcript the following pleadings, proceedings and papers on file, to wit:

1. Petition for naturalization.
2. Affidavit of witnesses.
3. Oath of allegiance.
4. Order of Court admitting petitioner.

5. Decision overruling objection to application.
6. Minutes of Court: July 15, 1907.
July 22, 1907.
July 29, 1907.
August 13, 1907.
7. Notice of petition for writ of error.
8. Petition for writ of error.
9. Assignment of errors.
10. Stipulation as to bill of exceptions.
11. Order allowing writ of error.
12. Writ of error.
13. Citation.
14. This praecipe.

Said transcript to be prepared as required by law and the rules of this court, and the rules of the United States Circuit Court of Appeals for the Ninth Circuit, and filed in the office of the clerk of said Circuit Court of Appeals at San Francisco, before the fifth day of October, A. D. 1907.

Dated Honolulu, Hawaii, September 6th, A. D. 1907.

THE UNITED STATES OF AMERICA,

Plaintiffs in Error.

By ROBT. W. BRECKONS,

United States Attorney.

J. J. DUNNE,

Assistant United States Attorney.

[Endorsed]: Title of Court and Cause. Praeceptum.
Filed Sept. 6th, 1907. Frank L. Hatch, Clerk.

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

In the Matter of the Application of GEORG
FRIEDRICH RODIEK, for Naturalization.

Clerk's Certificate to Transcript of Record.

United States of America,
District of Hawaii,—ss.

I, Frank L. Hatch, Clerk of the United States District Court, for the Territory of Hawaii, do hereby certify that the foregoing pages numbered from 1 to 29, inclusive, constitute a true and complete transcript of the record and proceedings had in said court in the matter of the application of Georg Friedrich Rodiek, for naturalization, as the same remains of record and on file in my office, and I further certify that hereto annexed are the original writ of error and citation on appeal in said above-entitled matter.

I further certify that the cost of the foregoing transcript of record is \$9.65, and that said amount has been charged by me in my account against the United States.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Honolulu,

in said district and territory, on this 10th day of September, A. D. 1907.

[Seal]

FRANK L. HATCH,
Clerk of Said Above-entitled Court.

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

April A. D. 1907 Term.

In the Matter of the Application of GEORG
FRIEDRICH RODIEK, for Naturalization.

Writ of Error (Original).

United States of America,—ss.

The President of the United States of America, to
the Honorable SANFORD B. DOLE, Judge of
the United States District Court for the Terri-
tory of Hawaii, Greeting:

Because in the record and proceedings, as also in
the giving, making, rendition, entering and filing of
the final judgment in that certain matter in the
aforesaid District Court, before you, between the
United States of America and Georg Friedrich
Rodiek, petitioner and applicant above named, a
manifest error hath happened, to the great preju-

dice and damage of said The United States of America, as is said appears by the petition herein.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the party aforesaid, in this behalf, do command you, if justice be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Justice of the United States Circuit Court of Appeals for the Ninth Circuit, in the city of San Francisco, in the State of California, together with this writ, so as to have the same at the said place in the said Circuit on the fifth (5th) day of October, A. D. 1907, that the said records and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct those errors what of right and according to the laws and customs of the United States, should be done.

Witness the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, this sixth day of September, A. D. 1907.

Attest my hand and the seal of the United States District Court for the Territory of Hawaii, at the

Clerk's office at Honolulu, in said Territory, on the day and year last above written.

[Seal]

FRANK L. HATCH,

Clerk of the United States District Court for the Territory of Hawaii.

Allowed this sixth day of September, A. D. 1907.

SANFORD B. DOLE,

Judge of the United States District Court for the Territory of Hawaii.

Service of the above writ, and receipt of a copy thereof, are hereby admitted this sixth day of September, A. D. 1907.

THOMPSON & CLEMONS,

Counsel for Petitioner and Applicant.

[Endorsed]: United States District Court, District of Hawaii. In the Matter of the Application of Georg Friedrich Rodiek for Naturalization. Writ of Error. Filed Sept. 6th, 1907. Frank L. Hatch, Clerk. By _____, Deputy Clerk.

*In the District Court of the United States in and for
the District and Territory of Hawaii.*

April A. D. 1907 Term.

In the Matter of the Application of GEORG FRIEDRICH RODIEK, for Naturalization.

Citation (Original).

United States of America,—ss.

The President of the United States of America, to
Georg Friedrich Rodiek, the Above-named Petitioner and Applicant, and to His Counsel,
Greeting:

You and each of you are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, in the State of California, within thirty (30) days from the date of this writ, pursuant to a writ of error filed in the clerk's office of the above-named District Court of the United States in and for the Territory and District of Hawaii, wherein the United States of America is plaintiff and petitioner in error, and you are defendant and respondent in error, to show cause, if any there be, why the final judgment in said writ of error mentioned, and from which said writ of error had been allowed, should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States of America, this sixth (6th) day of September, A. D. 1907, and of the Independence of

the United States of America the one hundred and thirty-second.

SANFORD B. DOLE,
Judge United States District Court for the Territory of Hawaii.

[Seal] Attest: FRANK L. HATCH,
Clerk United States District Court for the Territory of Hawaii.

Due service of the foregoing citation, and receipt of a copy thereof are hereby admitted this sixth (6th) day of September, A. D. 1907.

THOMPSON & CLEMONS,
Counsel for Petitioner and Applicant.

[Endorsed]: United States District Court, District of Hawaii. In the Matter of the Application of Georg Friedrich Rodiek for Naturalization. Citation. Filed Sept. 6th, 1907. Frank L. Hatch, Clerk. By _____, Deputy.

[Endorsed]: No. 1503. United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Plaintiff in Error, vs. Georg Friedrich Rodiek, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court for the Territory of Hawaii.

Filed September 23, 1907.

F. D. MONCKTON,
Clerk.

